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STATINTL

Insurance on Risks to Government

1.   In the absence of specific statutory authority, it is well-established that the Government acts as a self-insurer, and that funds for the support of Government activities are not considered applicable generally for the purchase of insurance to cover loss to the Government. (23 Comp. Gen. 269; id 297 - 4 Comp. Gen. 690, etc.) As the reason for this policy is stated in 19 Comp. Gen. 211, 214 -

> "The magnitude of its resources obviously makes it more advantageous for the Government to carry its own risks than to shift them to private insurers at rates sufficient to cover all losses, to pay their operating expenses, including agency or brokers' commissions, and to leave such insurers a profit."

The practice of self-insuring by the Government, however, is one of policy and not of positive law, and it is not strictly observed in cases involving property of a Government corporation -- an intervening legal entity (21 Comp. Gen. 928). Nor has it been applied in cases where private property was in the custody of the Government through judicial process, loan, or lease. (8 Comp. Gen. 19; 17 id. 55; B-43932, 9-15-44.) In cases where the application of the policy may be questioned, the doubt can always be resolved if the statutory provision is sufficient to justify the purchase of insurance from a source outside the Government. (3 Comp. Gen. 786; 16 id. 453; 19 id. 211.) It should be noted that the policy relates to the risk and not to the nature of the risk, and that there is no material distinction between assumption of risk of property damage and assumption of risk of tort liability (19 Comp. Gen. 798). Requirements of necessity or expedience may intervene, of course, and there the application of the rule is obviated. This would be so where a local statute makes public liability insurance on motor vehicles compulsory.

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General Counsel:

Legal Division

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